

REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS AUDIT EXAMINATION OF THE FORMER KENTON COUNTY SHERIFF

For The Period July 31, 1998 Through December 31, 1998

EDWARD B. HATCHETT, JR. AUDITOR OF PUBLIC ACCOUNTS WWW.KYAUDITOR.NET

144 CAPITOL ANNEX FRANKFORT, KY 40601 TELE. (502) 564-5841 FAX (502) 564-2912

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Edward B. Hatchett, Jr. Auditor of Public Accounts

To the People of Kentucky
Honorable Paul E. Patton, Governor
John P. McCarty, Secretary
Finance and Administration Cabinet
Mike Haydon, Secretary, Revenue Cabinet
Honorable Richard L. Murgatroyd, Kenton County Judge/Executive
Honorable Charles L. Korzenborn, Kenton County Sheriff
Honorable Gary Lay, Former Kenton County Sheriff
Members of the Kenton County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of receipts and disbursements of the former Sheriff of Kenton County, Kentucky, and the statement of receipts, disbursements, and fund balances of the former Sheriff's operating fund and county fund with the State Treasurer for the period July 31, 1998 through December 31, 1998. These financial statements are the responsibility of the former Sheriff. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, <u>Government Auditing Standards</u> issued by the Comptroller General of the United States, and the <u>Audit Guide for County Fee Officials</u> issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the former Sheriff is required to prepare the financial statements on a prescribed basis of accounting that demonstrates compliance with the cash basis and laws of Kentucky, which is a comprehensive basis of accounting other than generally accepted accounting principles. This cash basis system does not require the maintenance of a general fixed asset group or general long-term debt group of accounts. Accordingly, the accompanying financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

We were unable to obtain written representation from the former Sheriff regarding the management practices and accounting policies employed during our audit period.

To the People of Kentucky
Honorable Paul E. Patton, Governor
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In our opinion, except for the effects on current financial resources as discussed in the preceding paragraph, the accompanying financial statements referred to above present fairly, in all material respects, the receipts and disbursements of the former Sheriff and the receipts, disbursements, and fund balances of the former Sheriff's operating fund and county fund with the State Treasurer for the period July 31, 1998 through December 31, 1998, in conformity with the basis of accounting described above.

Our audit was made for the purpose of forming an opinion on the statement of receipts, disbursements, and excess fees taken as a whole. The accompanying schedule of excess of liabilities over assets is presented for purposes of additional analysis and is not a required part of the financial statements. Such information has been subjected to auditing procedures applied in the audit of the financial statements and, in our opinion, is fairly presented in all material respects in relation to the financial statements taken as a whole.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following areas:

- The Former Sheriff Should Have Had A Written Agreement To Protect Deposits
- The Former Sheriff Should Have Completed A Quarterly Report
- The Former Sheriff Has A Fund Deficit Of \$515 In His Carrying Concealed Deadly Weapon Account
- The Former Sheriff Should Have More Closely Safeguarded Money Kept In His Safe
- Prior Kenton County Sheriff William Steenken And Former Sheriff Gary Lay Utilized A
 Credit Card For Which There Are No Funds To Cover The \$6,661 Outstanding Balances Due
 At The End Of Their Terms Of Office

In accordance with <u>Government Auditing Standards</u>, we have also issued a report dated November 24, 1999, on our consideration of the former Sheriff's compliance with laws and regulations and internal control over financial reporting.

Respectfully submitted,

Edward B. Hatchett, Jr. Auditor of Public Accounts

Audit fieldwork completed - November 24, 1999

KENTON COUNTY GARY LAY, FORMER SHERIFF STATEMENT OF RECEIPTS AND DISBURSEMENTS

For The Period July 31, 1998 Through December 31, 1998

Receipts

State Fees for Services Conveying Prisoners	\$ 2,380	
Summoning Witnesses	1,473	
Monthly Court Service Fees	37,574	
Attending Jury	13	
KLEFPF Funds	32,119	
Petty Cash Reimbursement	7,000	\$ 80,559
Circuit Court Clerk		
Security Service Fees		50,193
Fiscal Court		
Conveying Prisoners		2,237
County Clerk		12,872
Commission on Taxes		1,650,775
Fees Collected for Services:		
Auto Inspections	\$ 27,422	
Serving Papers	60,890	
Carrying Concealed Deadly Weapon Permits	7,660	
Warrants/Summons	6,920	102,892
Other Receipts:		
Interest Earned	\$ 41,748	
Miscellaneous	 2,939	 44,687
Gross Receipts (Carried Forward)		\$ 1,944,215

GARY LAY, FORMER SHERIFF STATEMENT OF RECEIPTS AND DISBURSEMENTS For The Period July 31, 1998 Through December 31, 1998 (Continued)

Gross Receipts (Brought Forward)			\$ 1,944,215
<u>Disbursements</u>			
Payments to State:			
Carrying Concealed Deadly Weapon Permits		\$ 4,480	
Other Disbursements:			
Carrying Concealed Deadly Weapon Permits			
- Former Sheriff Gary Lay's Share	\$ 2,180		
- Prior Sheriff Bill Steenken's Share	1,515		
Excess Fees To County	9,502		
Bank Service Charges	210	 13,407	
Total Disbursements			 17,887
Net Receipts			\$ 1,926,328
Payments to State Treasurer:			
75% Operating Fund	\$ 1,478,379		
25% County Fund	448,464		 1,926,843
Deficit December 31, 1998			\$ (515)

KENTON COUNTY GARY LAY, FORMER SHERIFF

STATEMENT OF RECEIPTS, DISBURSEMENTS, AND FUND BALANCES OF THE FORMER SHERIFF'S OPERATING FUND AND COUNTY FUND WITH THE STATE TREASURER

For The Period July 31, 1998 Through December 31, 1998

	75	%	25%	ó		
	Operating		County			
	Fu	nd	Fun	nd	Tot	als
Fund Balance - July 31, 1998	\$		\$		\$	
Receipts						
Fees Paid to State - Operating Funds (75%)						
- Former Sheriff Gary Lay		1,478,379				1,478,379
- Prior Sheriff Bill Steenken		432,752				432,752
Fees Paid to State - County Funds (25%)				448,464		448,464
				_		·
Total Funds Available	\$	1,911,131	\$	448,464	\$	2,359,595
<u>Disbursements</u>						
Kenton County Government	\$	1,193,867	\$	448,464	\$	1,642,331
Personnel Services-						
Official's Statutory Maximum		26,306				26,306
Deputies' Salaries		407,512				407,512
Employee Benefits-						
Social Security		30,829				30,829
Retirement		70,823				70,823
Health Insurance		68,890				68,890
Life Insurance		1,080				1,080
Contracted Services-						
Advertising		1,680				1,680
Data Processing		27,565				27,565
Materials and Supplies-						
Office Materials and Supplies		2,765				2,765
Deputy Uniforms and Supplies		23,075				23,075

KENTON COUNTY

GARY LAY, FORMER SHERIFF

STATEMENT OF RECEIPTS, DISBURSEMENTS, AND FUND BALANCES OF THE FORMER SHERIFF'S OPERATING FUND AND COUNTY FUND WITH THE STATE TREASURER

For The Period July 31, 1998 Through December 31, 1998 (Continued)

	-	% perating nd	Con Fun	unty	Tot	als
<u>Disbursements</u> (Continued)						
Other Charges-						
Dues	\$	70	\$		\$	70
Postage		1,641				1,641
Telephone		3,972				3,972
Travel		1,244				1,244
Training		1,223				1,223
Eye Care Program		2,543				2,543
Printing		220				220
Office Equipment Maintenance		544				544
Parking		6,164				6,164
Miscellaneous		1,215				1,215
Auto Expenses on Personal Vehicles-						
Maintenance and Repairs		16,748				16,748
Capital Outlay-						
Office Equipment		771				771
Vehicles		20,384				20,384
Total Disbursements	\$	1,911,131	\$	448,464	\$	2,359,595
Fund Balance - March 12, 1999	\$	0	\$	0	\$	0

KENTON COUNTY GARY LAY, FORMER SHERIFF NOTES TO THE FINANCIAL STATEMENTS

December 31, 1998

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

A fee official in counties with a population over 70,000 has two funds established with the state for the deposit of fees collected. Seventy-five percent (75%) of the fees collected is deposited in a Sheriff's operating fund and used for office expenses of the fee official. The remaining twenty-five percent (25%) of fees collected is deposited to the county fiscal court fund and periodically paid to the county government. These funds are closed at the end of each four-year term by paying the balances to the respective county government.

B. Basis of Accounting

The financial statements have been prepared on a cash basis of accounting pursuant to KRS 68.210 as recommended by the State Local Finance Officer. Revenues and related assets are generally recognized when received rather than when earned. Certain expenses are recognized when paid rather than when a liability is incurred, including capital asset purchases. Certain other expenses are recognized when a revenue and the related asset can be associated with a corresponding liability due another governmental entity.

The Attorney General issued a letter which stated that some receipts of the fee official offices could be considered reimbursed expenses. All reimbursed expenses are receipted in the 75 percent fund.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

KENTON COUNTY GARY LAY, FORMER SHERIFF NOTES TO THE FINANCIAL STATEMENTS December 31, 1998 (Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS) pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a multiple-employer public retirement system that covers all eligible full-time employees. Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 8.65 percent. Hazardous covered employees are required to contribute 7.0 percent of their salary to the plan. The county's contribution rate for hazardous employees was 18.69 percent.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is present in the Kentucky Retirement System's annual financial report which is a matter of public record.

Note 3. Deposits

The Sheriff maintains deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to law, the depository institution should pledge sufficient securities as collateral which, together with FDIC insurance, equals or exceeds the amount on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge of securities should be evidenced by an agreement that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. The depository institution has made such a pledge, and the depository institution's board of directors or loan committee approved the pledge. However, the depository institution did not have a written agreement with the former Sheriff.

Note 4. Subsequent Events

A credit card utilized by prior Sheriff William Steenken and former Sheriff Gary Lay had an outstanding balance due as of December 31, 1998, of \$6,661, with interest and finance charges accruing monthly subsequent to that date. No funds are available for payment of this account. It appears that \$5,185 is attributable to prior Sheriff William Steenken's term of office and \$1,476 is attributable to former Sheriff Gary Lay's term of office. This matter has been turned over to the Attorney General's office for resolution.

KENTON COUNTY GARY LAY, FORMER SHERIFF SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS

December 31, 1998

Assets	
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Cash in Bank Fee Account Petty Cash Account Carrying Concealed Deadly Weapon Account Receivables:	\$ 292,227 381 2,393	\$ 295,001
Fee Account	\$ 15	
Petty Cash Account	 6,759	 6,774
Total Assets		\$ 301,775
<u>Liabilities</u>		
Obligations Paid After December 31, 1998 Fee Account Carrying Concealed Deadly Weapon Account	\$ 291,121 1,245	
Total Obligations Paid After December 31, 1998		\$ 292,366
Unpaid Obligations: Fee Account Petty Cash Account Carrying Concealed Deadly Weapon Account	\$ 1,121 7,140 1,663	
Total Unpaid Obligations		\$ 9,924
Total Liabilities		\$ 302,290
Total Fund Deficit as of December 31, 1998		\$ (515)





KENTON COUNTY GARY LAY, FORMER SHERIFF COMMENTS AND RECOMMENDATIONS

For The Period July 31, 1998 Through December 31, 1998

FINDINGS - FINANCIAL STATEMENT AUDIT

NONCOMPLIANCES

1) The Former Sheriff Should Have Had A Written Agreement To Protect Deposits.

The former Sheriff maintained deposits with a depository institution insured by the Federal Deposit Insurance Corporation (FDIC). The former Sheriff had a bank balance of \$35,524,688; FDIC insurance of \$100,000; and securities pledged of \$50,000,000 as of November 5, 1998. Even though the former Sheriff obtained pledged securities of \$50,000,000, the pledge was not evidenced by a written agreement. We recommend the Sheriff enter into a written agreement with the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. According to federal law, 12 U.S.C.A. S 1823(e), this agreement should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Management's Response:

I was appointed Sheriff.

2) The Former Sheriff Should Have Completed A Quarterly Report.

Pursuant to KRS 68.210, the former Sheriff is required to complete a quarterly report and submit it to the State Local Finance Officer. He did not do so for the fourth quarter in calendar year 1998.

Management's Response:

OK.

KENTON COUNTY GARY LAY, FORMER SHERIFF COMMENTS AND RECOMMENDATIONS For The Period July 31, 1998 Through December 31, 1998

FINDINGS - FINANCIAL STATEMENT AUDIT (Continued)

3) The Former Sheriff Has A Fund Deficit Of \$515 In His Carrying Concealed Deadly Weapon Account

The former Sheriff had a separate bank account for the maintenance of Carrying Concealed Deadly Weapon (CCDW) funds. As of September 30, 1999, there was a balance in that account of \$1,162. In August 1998 receipts were deposited in former Sheriff Gary Lay's CCDW account, but payments were made from prior Sheriff Bill Steenken's CCDW account. As a result, \$1,515 is owed to prior Sheriff Steenken's CCDW account. There is also \$162 owed to former Sheriff Lay's fee account for interest accrued. These two payments represent a \$515 deficit in former Sheriff Lay's CCDW account. Upon investigation, we learned that in the months of October, November, and December 1998, deposits into the CCDW account did not equal the amount of payments made to the State Police and Sheriff's fee account. Licenses issued per the state equaled the payments, so it is ascertained that \$515 was collected, but not deposited. We recommend that former Sheriff Lay pay his CCDW account \$515 from personal money to cover this fund deficit.

Management's Response:

I will consult my attorney.

REPORTABLE CONDITIONS

1) The Former Sheriff Should Have More Closely Safeguarded Money Kept In His Safe

During the audit, we noted that money (CCDW receipts kept in a cigar box) kept in a safe was not carefully safeguarded. This safe was left open during the day in the closet and room, which also remained open. Various people went in and out of this room at will, with no responsible person present most of the time. Per our audit inquiry, this happened during former Sheriff Gary Lay's administration, with significant amounts of cash involved from return of fugitive trips.

Management's Response:

OK. I understand your comment.

KENTON COUNTY GARY LAY, FORMER SHERIFF COMMENTS AND RECOMMENDATIONS For The Period July 31, 1998 Through December 31, 1998

FINDINGS - FINANCIAL STATEMENT AUDIT (Continued)

REPORTABLE CONDITIONS (Continued)

2) Prior Kenton County Sheriff William Steenken And Former Sheriff Gary Lay Utilized A Credit Card For Which There Are No Funds To Cover The \$6,661 Outstanding Balance Due At The End Of Their Terms Of Office

During our audit, we discovered the use of a credit card for official business. As of December 31, 1998, there was a cumulative balance of \$6,661, which we have computed to be \$5,185 attributable to prior Sheriff William Steenken's term of office and \$1,476 attributable to former Sheriff Gary Lay's term. No funds appear to be available for payment of this account, and interest and finance charges have been accruing.

Our audit revealed that although this credit card was intended to be used for the return of fugitive expenses, many other undocumented expenses were incurred therein which should have been expensed through the fee account. Also, upon reviewing some copies of return of fugitive cancelled checks, we learned that they were cashed and that this cash was not immediately applied to the credit card account.

Due to the mishandling of this account, lack of documentation thereof, along with the resultant balance due of \$6,661 at December 31, 1998, and interest accruing regularly to date, we have turned the matter over to the Attorney General's office for investigation and decision as to the payment of this account balance.

Management's Response:

Former Sheriff William Steenken:

Waiting for opinion from the attorney general's office.

Former Sheriff Gary Lay:

To the best of my knowledge everything was in order when I left office.



REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



Edward B. Hatchett, Jr. Auditor of Public Accounts

Honorable Richard L. Murgatroyd, County Judge/Executive Honorable Charles L. Korzenborn, Kenton County Sheriff Honorable Gary Lay, Former Kenton County Sheriff Members of the Kenton County Fiscal Court

> Report On Compliance And On Internal Control Over Financial Reporting Based On An Audit Of The Financial Statements Performed In Accordance With Government Auditing Standards

We have audited the former Kenton County Sheriff for the period July 31, 1998 through December 31, 1998, and have issued our report thereon dated November 24, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in <u>Government Auditing Standards</u> issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the former Kenton County Sheriff's financial statements for the period July 31, 1998 through December 31, 1998, are free of material misstatement, we performed tests of compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under <u>Government Auditing Standards</u> which are described in the accompanying comments and recommendations.

- The Former Sheriff Should Have Completed A Quarterly Report
- The Former Sheriff Has A Fund Deficit Of \$515 In His Carrying Concealed Deadly Weapon Account

In planning and performing our audit, we considered the former Kenton County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements. The reportable condition is described in the accompanying comments and recommendations.

Honorable Richard L. Murgatroyd, County Judge/Executive
Honorable Charles L. Korzenborn, Kenton County Sheriff
Honorable Gary Lay, Former Kenton County Sheriff
Members of the Kenton County Fiscal Court
Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statements Performed In Accordance With Government Auditing Standards
(Continued)

- The Former Sheriff Should Have More Closely Safeguarded Money Kept In His Safe
- Prior Kenton County Sheriff William Steenken And Former Sheriff Gary Lay Utilized A
 Credit Card For Which There Are No Funds To Cover The \$6,661 Outstanding Balances Due
 At The End Of Their Terms Of Office

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we consider the reportable conditions described above to be material weaknesses.

This report is intended for the information of management. However, this report, upon release by the Auditor of Public Accounts, is a matter of public record and its distribution is not limited.

Respectfully submitted,

Edward B. Hatchett, Jr. Auditor of Public Accounts

Audit fieldwork completed -November 24, 1999